

2012 Annual Report

Great Seal of Missouri

**MISSOURI SMALL
BUSINESS REGULATORY
FAIRNESS BOARD**

December, 2012

Respectfully Submitted by:
Vicki Englund
Chairperson

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Missouri Small Business Regulatory Fairness Board

Board Identity

Purpose

The Missouri Small Business Regulatory Fairness Board (“SBRFB”) believes the most effective way to accomplish regulatory fairness for small businesses is to foster communication during the promulgation, enforcement, and review of rules and regulations affecting small businesses.

Mission Statement

The Missouri Small Business Regulatory Fairness Board mission includes promoting awareness of Missouri state agency rulemaking as it affects small business in the following areas by:

- Encourage small business owners input into the development of rules and regulations prior to the 30-day comment period;
- Independently reviewing complaints brought by small businesses concerning Missouri state agency regulations that have a disproportionate impact on the conduct of small businesses in Missouri;
- Facilitating Missouri state agency review of their approach to regulatory fairness for small businesses; and
- Reporting these issues, including agency evaluations and recommendations to the Governor and the members of the Legislature.

Missouri Small Business Regulatory Fairness Board

Membership Criteria

Membership

The Board will be comprised nine members appointed in the following manner:

- One member who is the chair of the minority business advocacy commission;
- One member appointed by the president pro tempore of the Senate;
- One member appointed by the minority leader of the Senate;
- One member appointed by the speaker of the House of Representatives;
- One member appointed by the minority leader of the House of Representatives;
and
- Four members appointed by the Governor.

Each member of the Board, except for the public members and the chair of the minority business advocacy commission, shall be a current or former owner or officer of a small business. All members of the Board shall represent a variety of small businesses, both rural and urban, and be from a variety of geographical areas of the State, and no more than two members shall represent the same type of small business.

Missouri Small Business Regulatory Fairness Board

Board of Directors

Gubernatorial Appointments:

Ms. Megan Bittle
Owner
Commission RSI Kitchen & Bath
St. Louis, Missouri

Mr. William Jenks
Owner
Jenks/Long Insurance
Rolla, Missouri

Mr. Jim Seigfreid, Vice Chair (Elected by the Board)
Retired Business Owner
Warrensburg, Missouri

Vacancy

Legislative Appointments:

Ms. Vicki Englund (D), Chair (Elected by the Board)
(Appointed by Minority Leader, MO House of Representatives)
St. Louis, Missouri

Mr. Scott George
(Appointed by the Speaker of the Missouri House of Representatives)
Mid-America Dental & Hearing Center
Mt. Vernon, Missouri

Mr. Micheal Ocello
(Appointed by the Minority Leader of the Senate)
Unique Entertainment Consultants, Inc.
St. Louis, Missouri

Ms. Nancy Zurbuchen
(Appointed by the President Pro-Tem of the Senate)
Motional Multimedia
Kansas City, Missouri

Appointment by Statute:

Ms. Sheila Forrest
(Minority Business Advocacy Chair)
Afro World Hair and Fashion Company
St. Louis, Missouri

Missouri Small Business Regulatory Fairness Board

Board Responsibilities

The Missouri Small Business Regulatory Fairness Board (SBRFB) ensures that Missouri small business owners (those with 100 or fewer full-time or part-time employees) have a voice in the development of rules and regulations by Missouri state departments and agencies. Missouri's state departments and agencies are required to solicit input from small business owners prior to implementing new rules and regulations. Agencies must determine if the proposed rule affects small business and, if so, the availability and practicability of less restrictive alternatives that can be implemented to achieve the same results.

The Board provides state agencies with input regarding rules that adversely affect small businesses and solicits comments from small businesses.

The Board also holds hearings around the state with state agencies and small business owners. These events provide a public venue for state agencies to discuss their approach to regulatory fairness for small businesses and for members of the public to comment on state agency performance.

The Board will also publish an annual report for the Governor and General Assembly that evaluates state agency performance and makes recommendations regarding regulatory fairness for Missouri's small businesses. The report will include comments from small business owners, state agency responses, and a summary of any public testimony brought before the board for consideration.

Missouri Small Business Regulatory Fairness Board

2012 Fiscal Year Board Meetings

Meetings

Four meetings were held by the Board in Fiscal Year 2012:

- ✓ September 19, 2011- Jefferson City
SBRFB Members Orientation Meeting utilizing Telepresence with Board members able to attend at locations in Jefferson City, Kansas City, and St. Louis
- ✓ November 7, 2011-Jefferson City
SBRFB Meeting
- ✓ March 28, 2012-Jefferson City
SBRFB Meeting

Missouri Small Business Regulatory Fairness Board

2012 Fiscal Year Small Business Comments

2012 Fiscal Year Small Business Comments

While the Board continued working on existing issues, we had one new inquiry initiated in 2012 Fiscal Year:

1. Rhesa Funk, Owner, Funk Advertising Agency & Promotional Products, Pilot Knob, July 19, 2011. The local vocational technical school, Arcadia Valley Career Tech, is competing with her business by providing low cost imprinted t-shirts, banners, and signs. Ms. Funk stated that Missouri should follow Oklahoma, which restricts schools from using state funds to provide items at low cost to the community dues to the detriment on local small businesses which provide the same goods.

Missouri Small Business Regulatory Fairness Board

State Agency Evaluations

Purpose

In fulfilling its duties outlined in 536.310 RSMo, the Board shall provide an evaluation report to the governor and the general assembly. The SBRFB is charged with tracking and providing results of agency compliance with SBRFB efforts. Agencies working with the SBRFB will ultimately result in higher compliance and fewer complaints from small business owners.

Providing feedback to the agencies is of prime importance, as is agency cooperation and communication back to the board. The SBRFB has created criteria and ongoing training for the agencies so that they have a clear understanding of what the board is looking for. The criteria used in making evaluations are listed at the top of each column in the following table.

SBRFB Agency Evaluations 2012 Fiscal Year

In general, we have built a good working relationship with the state agencies, as can be observed by the evaluations. As we progress, the criteria need to be updated in keeping with the work of the Board as well as the agencies. We will continue to provide ongoing communication to the agencies regarding expectations, criteria, and training. The evaluation criteria for FY2012 are as follows:

Column A: State Agency

Column B: 'Respond to Small Business Comments in a Timely Manner'. The agency has 60 days to respond to an initial comment.

Column C: 'Provide Complete Response to Small Business Comments' to evaluate the quality of content in the initial agency response.

Column D: 'Participate in Regulatory Fairness Meetings' refers to meeting attendance and participation by the agency liaison.

Column E: 'Participate in Regulatory Fairness Public Hearings' refers to the agency providing decision-makers and knowledgeable personnel to answer questions brought in front of the Board at the public hearings.

Column F: 'Train agency staff on SBRFB Programs' evaluates agency effectiveness in training agency personnel on SBRFB.

Column G: 'Agency Responsiveness to SBRFB Requests' includes not only timeliness of the ongoing letters, but also the quality of content (e.g., did it answer the questions.) This refers to the subsequent letters that frequently occur back and forth as the Board works through an issue. The agency has 30 days to respond to each request. ("Adherence to Non-Retaliation Policy' purpose is to monitor the rare, but disturbing, accusations of agency retaliation against a small business owner before or after their small business comments/issues brought before the SBRFB.)

Column H: 'Complete Small Business Impact Statement' evaluates agency on both the existence and quality of content in a SBIS when small businesses are impacted by a rules change.

Column I: 'Notify SBRFB of Small Business Comments from Public' -- The Board intends to more closely monitor whether the agency notifies the SBRFB of small business comments that come directly to the agency from the public and therefore do not otherwise come in front of the Board.

Column J: 'Conduct Biennial Evaluations of Rules Affecting Small Business' is only listed every odd-numbered Fiscal Year.

Missouri Small Business Regulatory Fairness Board

Biennial State Agency Comprehensive Report

Each State agency will be required, on June 13, 2013 to submit a list of rules affecting small business to the Missouri General Assembly and the Missouri Small Business Regulatory Fairness Board per RSMo, 536.325:

The agency shall also submit a report describing the specific public purpose or interest for adopting the respective rules and any other reasons to justify its continued existence. This list and report will be issued by each state agency every odd numbered year.

Routine review of regulations allows the agencies, and affected small businesses, to ensure that current regulations are still meeting the intended purpose. Sometimes rules can be modified to still meet the intent while lessening the impact on small businesses. In other cases, the rules may have outlived their intent and can be rescinded.

The SBRFB's grading criteria for the biennial reports are:

- A Agency submitted a report by June 13, 2013, listed each rule*, described the specific purpose of the rule and the reason for the rule's continued existence.
- B Agency submitted a report by June 13, 2013, listed each rule*, but either did not describe the specific purpose of the rule and/or the reason for the rule's continued existence.
- C Agency submitted a report by June 13, 2013, but failed to list each rule* or provide the specific purpose of the rule and/or reason for the rule's continued existence.
- D Agency failed to submit a report by June 13, 2013.
- F Agency failed to submit a report.

* While the SBRFB understands that some agencies group similar rules together in the report because of the sheer volume of information to be presented, the SBRFB reserves the right to request more specific information regarding such "bundled" rules.

Biennial Report for Fiscal Year 2013

In 2012, the Missouri General Assembly passed Senate Bill 469 which modifies provisions regarding the update and review of administrative rules. The act provides that every state administrative rule shall be subject to a periodic review by the appropriate state agency every five years. Each agency with rules under review shall prepare a report with the results of the periodic rule review. The report shall consider whether the rule: continues to be necessary or is obsolete; duplicates, overlaps or conflicts with other state, federal or local rules; needs changes or should be rescinded in order to reduce regulatory burdens on businesses, individuals or political subdivisions, or to eliminate unnecessary paperwork; and whether a less restrictive, more narrowly tailored rule could adequately protect the public or accomplish the same statutory purpose. For rules that affect small business, the agency must consider the specific public purpose or interest for adopting the rules and other reasons to justify its continued existence.

The agencies must file their reports with the Joint Committee on Administrative Rules (JCAR) and the Small Business Regulatory Fairness Board within one year of notice being filed JCAR in the Missouri Register.

The act removed the requirement in current law that every agency with rules that affect small business must submit a list of such rules and a report to the General Assembly and the Small Business Regulatory Fairness Board every two years. This report contains the same information required in the bill as part of the periodic review of all administrative rules.

Missouri Small Business Regulatory Fairness Board

Improved Communication

Building on our 2012 Fiscal Year Areas for Improvement, the SBRFB has taken steps to create smoother internal communication with the agencies. We have also begun steps to create better outreach communication so small business owners know we exist. We are still lacking in areas regarding monitoring, more complete rule review, and data tracking. As our introductory letter indicates, having enough administrative support remains an issue.

SBRFB Agency Evaluations
2012 Fiscal Year

DRAFT

A	B	C	D	E	F	G	H	I	J	K
STATE AGENCY	RESPOND TO SMALL BUSINESS COMMENTS IN TIMELY MANNER	PROVIDE COMPLETE RESPONSE TO SMALL BUSINESS COMMENTS	PARTICIPATE IN REGULATORY FAIRNESS MEETINGS	PARTICIPATE IN REGULATORY FAIRNESS PUBLIC HEARINGS	TRAIN AGENCY STAFF ON SBRFB PROGRAMS	AGENCY RESPONSIVENESS TO SBRFB REQUESTS	COMPLETE SMALL BUSINESS IMPACT STATEMENT	QUALITY OF CONTENT OF IMPACT STATEMENT	NOTIFY SBRFB ON SMALL BUSINESS COMMENTS IN PUBLIC HEARINGS	CONDUCT BIENNIAL EVALUATIONS OF RULES AFFECTING SMALL BUSINESS (Not required until June 13, 2013)
Office of Administration	N/A	N/A	Three of Three	N/A	A	N/A	N/A	N/A	N/A	
Agriculture	N/A	N/A	Three of Three	N/A	A	N/A	Yes	A	No public hearings were conducted	
Conservation	N/A	N/A	Three of Three	N/A	A	N/A	N/A	N/A	N/A	
Corrections	A	N/A	Two of Three	N/A	A	N/A	N/A	N/A	N/A	
Economic Development PSC	N/A	N/A	Three of Three	N/A	A	N/A	Yes	A	Public hearing was conducted by the PSC on 4/3/2012.	
Elementary & Secondary Education	N/A	A	Three of Three	N/A	A	A	Yes	A	N/A	
Higher Education	N/A	N/A	Three of Three	N/A	A	N/A	Yes	A	No public hearings were conducted.	
Health & Senior Services	A	N/A	Three of Three	N/A	Reviewed A	N/A	Yes	A	No public hearings were conducted.	
Insurance, Financial Institutions & Professional Registration	N/A	N/A	Three of Three	N/A	A	N/A	Yes	A	Public hearings were conducted on 3/5/2012 and 3/22/2012.	
Labor & Industrial Relations	N/A	N/A	Three of Three	N/A	A	N/A	Yes	A	No public hearings were conducted.	
Mental Health	N/A	N/A	Three of Three	N/A	A	N/A	Yes	A	No public hearings were conducted.	
Natural Resources	N/A	N/A	Three of Three	N/A	A	N/A	Yes	A	Public hearings were conducted on 11/25/2011, 11/28/2011, 14/2012, and 5/2/2012.	
Public Safety	N/A	N/A	Three of Three	N/A	A	N/A	Yes	A	No public hearings were conducted.	

SBRFB Agency Evaluations
2012 Fiscal Year

Revenue	N/A	N/A	Three of Three	N/A	A	N/A	Yes	A	No public hearings were conducted.
Social Services	N/A	N/A	Three of Three	N/A	A	N/A	Yes	A	No public hearings were conducted.
Transportation	N/A	N/A	Three of Three	N/A	A	N/A	N/A	N/A	N/A
	No Comments Received								

Revised

Small Business Regulator Fairness Board

Small Business Impact Statement

Date: October 29, 2012

Rule Number: 2 CSR 30.020

Name of Agency Preparing Statement:
Agriculture, Division of Animal Health

Name of Person Preparing Statement:
Penny Gottschalk

Phone Number: (573) 751-4358 **Email:**
penny.gottschalk@mda.mo.gov

Name of Person Approving Statement: Michael Warrick

Please describe the methods your agency considered or used to reduce the impact on small businesses (examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).

The method – to protect the cervid population of Missouri and increase the marketability of Missouri's cervid industry to other states.

Please explain how your agency has involved small businesses in the development of the proposed rule.

The cervid industry as well as other state agencies was included in the drafting of the proposed amendment.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

The Department of Agriculture will not receive any monetary costs, benefits or fees from the proposed regulations; however, this proposed amendment will enhance the marketability of Missouri's cervids to producers within Missouri as well as other states.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Cervid producers, hunting preserves.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

The proposed amendment provides a cost savings to cervid producers. There would be a minimal incurred expense to hunting preserves of Missouri that purchase cervids from out-of-state.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Cervid producers

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes No X

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.

**FISCAL NOTE
PRIVATE COST**

I. Department Title: Agriculture
 Division Title: Animal Health
 Chapter Title: Health Requirements for Movement of Livestock, Poultry and Exotic Animals

Rule Number and Title:	2 CSR 30-2.020 Movement of Livestock Poultry, and Exotic Animals Within Missouri
Type of Rulemaking:	Proposed

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Calculated per animal	Captive cervid producers Hunting preserves	Savings of \$330 per animal

III. WORKSHEET

Current regulations require captive cervids moving within Missouri to have one (1) negative brucellosis test within ninety (90) days of movement and two (2) tuberculosis tests not less than ninety (90) days apart. The second tuberculosis test must be within ninety (90) days prior to movement. For movement within Missouri, the animals must be examined and identified and listed on a Certificate of Veterinary Inspection. Estimated cost: \$530

Required testing - \$200

\$50 - Trip fee to conduct tests.

\$50 - Professional Services - conduct one (1) brucellosis and (1) tuberculosis tests.

\$50 - Trip fee to read the tuberculosis tests.

\$50 - Professional Services - to read the test.

2nd required tuberculosis test - \$200

\$50 - Trip fee to conduct second tuberculosis test.

\$50 - Professional services to conduct the second required tuberculosis.

\$50 - Trip fee to read second tuberculosis test.

\$50 - Professional services - to read the second test

Examination and Documentation for movement within Missouri - \$130

\$50 - Trip fee to inspect animals for movement

\$50 - Professional services to inspect animals for movement

\$30 - Issue a Certificate of Veterinary Inspection

With the proposed changes of requiring one (1) brucellosis and one (1) tuberculosis test and either a Breeder's Movement Certificate completed by the producer or a Certificate of Veterinary Inspection issued by the herd veterinarian. Estimated cost: \$200

Required testing - \$200

\$50 - Trip fee to conduct tests.

\$50 - Professional Services – conduct one (1) brucellosis and (1) tuberculosis tests.

\$50 - Trip fee to read the tuberculosis tests.

\$50 - Professional Services – to read the test.

Examination and Documentation for movement within Missouri - \$0

IV. ASSUMPTIONS

Proposed testing requirement is an estimated savings of \$330 per animal to producers.

**Title 2—DEPARTMENT OF
AGRICULTURE
Division 30—Animal Health
Chapter 2—Health Requirements for
Movement of Livestock, Poultry and
Exotic Animals**

PROPOSED AMENDMENT

2 CSR 30-2.020 Movement of Livestock, Poultry, and Exotic Animals Within Missouri. The department is amending subsections (6)(A)-(D) and adding subsection (6)(E).

PURPOSE: This amendment adds the requirement of movement to be accompanied by a Certificate of Veterinary Inspection or a Breeder's Movement Certificate, changes brucellosis and tuberculosis testing requirements, and adds a provision for hunting preserves.

(6) Captive Cervids.

(A) Captive cervids including but not limited to elk, elk-hybrids, red deer, roe deer, white-tailed deer, mule deer, sika deer, moose, reindeer, mutjac, and fallow deer exchanged, bartered, gifted, leased, or sold in Missouri must be individually identified by official eartag as defined in Title 9, *Code of Federal Regulations*, Part 71, published by the United States Superintendent of Documents, 732 N Capital Street NW, Washington, DC 20402-0001, phone: toll free (866) 512-1800, DC area (202) 512-1800, website: <http://bookstore.gpo.gov>, legible tattoo, or any other means of permanent identification approved by the state veterinarian and be individually listed on a Certificate of Veterinary Inspection or a Breeder's Movement Certificate. This rule does not incorporate any subsequent amendments or additions.

1. **Breeder's Movement Certificate.** A form provided by the Missouri Department of Agriculture (MDA) which documents the movement of cervids within Missouri. The form may be completed by the breeder and must list the official identification, age, gender, species of the cervids moving within Missouri and a complete address of the farm of origin and destination. The form will also list any required testing and Chronic Wasting Disease (CWD) status of the herd of origin. The original will accompany the shipment and a copy will be submitted to the MDA within thirty (30) days of movement.

(B) Brucellosis Requirements.

1. All sexually intact animals six (6) months of age and older, not under quarantine and not affected with brucellosis must [test negative for brucellosis within ninety (90) days prior to movement] have a negative brucellosis test within one (1) year prior to movement (negative test must date must be listed on the Certificate of Veterinary Inspection or on the Breeder's Movement Certificate) except—

[A. Brucellosis-free herd—captive cervids originating from certified brucellosis-free herd may move on herd status without additional testing provided the certified herd number and current test date is listed on the Certificate of Veterinary Inspection; and]

B. Brucellosis-monitored herd—all sexually intact animals six (6) months of age and older must test negative for brucellosis within ninety (90) days prior to movement.]

A. Captive cervids originating from certified brucellosis-free herds may move on the current herd number and test date.

B. Captive cervids moving directly to a slaughter facility; and

C. Movement to a licensed livestock market or premises of licensed dealer provided the cervids are tested within five (5) days and are quarantined and isolated pending test results. All records must be kept for five (5) years and available for inspection by a representative of the MDA upon request.

(C) Tuberculosis Requirements.

1. Captive cervids, [less than] six (6) months of age and older, not known to be affected or exposed to tuberculosis and not in a status herd must have one (1) tuberculosis test,[not less than ninety (90) days] within one (1) year prior to movement, using the single cervical method. The negative test date must be listed on the Certificate of Veterinary Inspection. Captive cervids must have been isolated from other captive cervids during the testing period.] (negative test date must be listed on the Certificate of Veterinary Inspection or listed on a Breeder's Movement Certificate), except --

- A. Captive cervids originating from accredited tuberculosis-free herds may move on the current herd number and test date;
- B. Captive cervids moving directly to a slaughter facility; and
- C. Movement to a licensed livestock market or premises of licensed dealer provided the cervids are tested within five (5) days and are quarantined and isolated pending test results. All records must be kept for five (5) years and available for inspection by a representative of the MDA upon request.

[2. Captive cervids six (6) months of age and over not known to be affected with or exposed to tuberculosis and not in a status herd must have two (2) tuberculosis tests, not less than ninety (90) days apart, using the single cervical method. The second test must be within ninety (90) days prior to movement. Both negative test dates must be listed on the Certificate of Veterinary Inspection. Captive cervids must have been isolated from other captive cervids during the testing period.

3. Movement from status herds.

A. Accredited herd—captive cervids originating from accredited tuberculosis-free herds may move on the current herd number and test date.

B. Qualified herd—captive cervids originating from a qualified herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to date of movement.

C. Monitored herd—captive cervids originating from a monitored herd must have one (1) negative tuberculosis test, using the single cervical method, within ninety (90) days prior to the date of movement.

D. Captive cervids less than twelve (12) months of age that originate from and were born in a qualified or monitored herd may be moved without further tuberculosis testing, provided that they have not been exposed to captive cervids from a lower status herd.]

(D) Chronic Wasting Disease.

1. All cervids over one (1) year of age must be enrolled in a [Chronic Wasting Disease (CWD)] program sponsored by the Department of Agriculture. Original anniversary date must be listed on the Certificate of Veterinary Inspection or Breeder's Movement Certificate. After January 1, 2013, all cervids must have a CWD Status Level of 1 to move within Missouri.

2. All suspected or confirmed cases of CWD must be reported to the state veterinarian.

3. All captive cervids from infected or source herds will be quarantined.

(E) Hunting Preserves

1. Must be permitted with the Missouri Department of Conservation (MDC) and comply with all regulations of the Wildlife Code.

2. Must maintain records of all purchased and harvested cervids.

A. Documentation must be maintained for five (5) years and provided for inspection to MDA and MDC authorities upon request. Records required include the name and address of the individual harvesting the animal, identification and origin (owner and address) of the harvested animal and Certificate of Veterinary Inspection or Breeder's Movement Certificate required for movement.

B. Any cervids entering the hunting preserve must be officially identified and listed on a Certificate of Veterinary Inspection or Breeder's Movement Certificate.

AUTHORITY: section 267.647, RSMo 2000. Original rule filed April 18, 1975, effective April 28, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed October 29, 2012.

PUBLIC COSTS: This proposed amendment will not cost state agencies or political subdivisions more than five hundred (\$500) in the aggregate.

PRIVATE COSTS: This proposed amendment may save producers three hundred thirty dollars (\$330) in cost associated with testing.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Agriculture, Linda Hickam, DVM, State Veterinarian, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.